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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/985,948  | 11/06/2001  | Philip C. Ward       | 78972.0023          | 4177             |
| 29693   | 7590        | 11/19/2003           | EXAMINER            |                  |
| WILEY, REIN & FIELDING, LLP<br>ATTN: PATENT ADMINISTRATION<br>1776 K. STREET N.W.<br>WASHINGTON, DC 20006 |             |                      |                     | PADEN, CAROLYN A |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
|   |             | 1761                 |                     |                  |

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 09/985,948      | WARD ET AL.  |
| Examiner                     | Art Unit        |              |
| Carolyn A Paden              | 1761            |              |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 March 2002.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-69 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 68 and 69 is/are allowed.

6)  Claim(s) 1-67 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3-29-02 6)  Other: \_\_\_\_\_

Claims 1-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term “bob syrup” is not adequately defined in the specification. Applicant refers to the Handbook of Sugars for the meaning of bob syrup but examiner cannot find this term in the USPTO copy of the Handbook. A brief review of the patents that use “bob syrup” does not show that there is a consistent bob syrup product or a consistent method of making bob syrup. The reference to Graff (5,879,728) shows one bob syrup formulation at column 5, lines 10-22; but the reference to Bunick (2003/0017202) shows a different formulation at page 6, column 2, paragraph 64-65. Thus it is unclear what specific syrup is being used in this process. If there is a specific formulation of bob syrup in the Handbook of Sugars that applicant intends to use, then the reference should be provided.

Claims 68-69 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is 703-308-3294. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*Carolyn Paden*  
CAROLYN PADEN 11-17-03  
PRIMARY EXAMINER  
GROUP 1761 (761)